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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

JUDGE
DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE
THE HON'BLE MR.JUSTICE MOHAMED ANWAR

WRIT PETITION NO.10351.1988

BETWEEN:

Smt .B.N.Meenakshamma,
w/o.Nanjundaiah,
aged : Major,
by her power of attorney holder
Shivananjaiah,
s/o.Gangappa,
R/o.Goneebedu Village,
Bhadrapathi Taluk,
Shimoga District.

(S)

PETITIONER

(By Sri B.Veerabhadrappa, Adv.,)

AND :

1. The State of Karnataka,
by its Secretary,
Revenue Department,
Vidhana Soudha,
Bangalore.
2. The Deputy commissioner,
Shimoga, Shimoga District.
3. The Asst.Commissioner,
Shimoga Sub-Division,
Shimoga.
4. Chandya Naika,
s.o.Hankyanaika,
5. Lalyanaika,
s/o.Hankyanaika,
Both Majors,
R/o.Goneebedu village,
Bhadrapathi Taluk,
Shimoga District.
6. G.K. Chatray Naik,
7. G.K. Shobya Naik,

Both are the sons of
Kalyanaik, Majors,
R/o.Goneebeedu Village,
Bhadravathi Taluk,
Shimoga District.

RESPONDENTS

This writ petition filed praying to quash Annexure B and A dated 30.6.88 and 15.4.1987 respectively.

This petition is coming on for hearing this day, the court made the following:-

ORDER

Heard.

2. Learned Counsel for petitioner brought to the notice of this Court its Division Bench decision in W.P. No.2451/1992 dated 9.10.1996 wherein the similar matter was said to have been remanded to the Assistant Commissioner with a direction to hold fresh enquiry in accordance with law, in view of the Judgment of Supreme Court in K.T.HUCHEGOWDA VS. DEPUTY COMMISSIONER AND OTHERS - 1994(3) SCC 536. Besides, as rightly contended by the petitioner the Assistant Commissioner has not recorded his distinct findings on the material points viz.,

(i) Whether or not the original grantee belongs to Scheduled Caste/Tribe.

(ii) Whether the land granted was free of

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cost or at upset price orn the upset price

representing the prevailing market value or less than that market value, and

(iii) that the condition prohibiting alienation of the land was for 10 years or 15 years.

3. Respondent No.2-Deputy Commissioner also did not advert to these material points in his impugned judgment. Therefore, the impugned order Annexure 'A' dated 15.4.1987 and the Appellate Order of Annexure 'B' of Deputy Commissioner dated 30.6.1988 are liable to be quashed and the matter requires to be remitted to the Assistant Commissioner for fresh enquiry and disposal.

4. For the reasons aforesaid, the petition is allowed. The impugned orders of R-2 & R-3 at Annexures 'A' & 'B' are quashed. The matter is remanded to R-3 Assistant Commissioner with a direction to hold fresh enquiry in the light of the observations made hereinafore and in accordance with law.



Sd/-
JUDGE